

EXHIBIT 1

United States Court of Appeals For the First Circuit

No. 13-2007

IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC.
PRODUCTS LIABILITY LITIGATION

SANDRA F. ARTIS, ET AL.,

Plaintiffs, Appellants,

v.

ALAUNUS PHARMACEUTICAL, LLC, ET AL.,

Defendants, Appellees.

ORDER OF COURT

Entered: December 10, 2013

The motion for leave to intervene filed by the Official Committee of Unsecured Creditors is allowed. In addition to the merits, the briefs on each side should discuss the following issues:

1. Appellants appear to be appealing the district court's decision not to abstain mandatorily from exercising whatever "related-to" jurisdiction it may have. They presumably will not be harmed if their state court cases reach a final judgment with res judicata consequences for the federal proceedings. In these circumstances, does this court have jurisdiction under traditional collateral order doctrine, considered without regard to 28 U.S.C. § 1334(d)? Cf. Mt. McKinley Ins. Co. v. Corning Inc., 399 F.3d 436, 442-43 (2d Cir. 2005).

2. Turning to § 1334(d), does the district court's 5/31/13 Order involve "a decision not to abstain in a proceeding described in subsection (c)(2)" of § 1334, where the court abstained under subsection (c)(1) after finding subsection (c)(2) inapplicable because of a statutory exception?

3. Does the parenthetical in § 1334(d)--"(other than a decision not to abstain in a proceeding described in subsection (c)(2))"--implicitly establish a right to appeal decisions to which it applies, or does it only preserve any appellate rights a party might have apart from § 1334?

4. Does the jurisdiction-stripping clause of § 1334(d) effectively bar mandamus review?

If appellants file a petition for a writ of mandamus, the petition will be consolidated with this appeal to the extent possible. The briefs on each side should incorporate the mandamus-related issues.

So ordered.

By the Court:

/s/ Margaret Carter, Clerk.

cc:

Kip Adams
Joseph Ahillen
Thomas Althausen
Mark Anderson
William Baldiga
Brett Bean
Mary Bers
Jay Blumberg
Alan Bozer
Sean Capplis
Joanna Chen
William Christie
Ryan Ciporkin
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Robert Curley, Jr.
William Dailey, Jr.
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Timothy Dardas
Richard Dean
Theresa Domenico
Robert Durant
Richard Ford
Michael Gardner
Robert Gaynor
Brian Gerling
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Mark Goodman
Michael Gottfried
Mary Greer
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Randy Hackney
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Carrie Hanger
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John Ryan
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